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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके।

Separate Paging is given to this Part in order that it may be filed as
a separate compilation

भाग II—खण्ड 3—उप-खण्ड (III) PART II—Section 3—Sub-section (III)

(संघ राज्य क्षेत्र प्रशासनों को छोड़कर) केन्द्रीय अधिकारियों द्वारा जारी किए गए आदेश और अधिसूचनाएं
Orders and Notifications Issued by Central Authorities (other than Administrations of Union
Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 7 मई, 1987

आदेश

का. आ. 64.—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट मध्य प्रदेश विधान सभा के लिए साधारण निर्वाचन, 1985 के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है, स्तम्भ (4) के उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाले अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1961 तथा तद्विधान बनाए गए नियमों द्वारा उक्त सारणी के स्तम्भ (5) में यथा उपदर्शित रूप में अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहा है,

और उक्त अभ्यर्थी ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उसके द्वारा दिए गए अभ्यावेदन पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उसके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है,

अतः, अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्ति को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी				
क्र. निर्वचन विनिर्दिष्टता सं.	निर्वाचन-क्षेत्र की क्रम सं. तथा नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम व पता	निराकृता का कारण	
1	2	3	4	5
1. मध्य प्रदेश विधान सभा के लिए सधारण निर्वाचन, 1985	85-सोहागपुर	श्री जमालुद्दीन, ग्राम-जगरहा, पोस्ट-अमलाई, जिला-शाहदोल, मध्य प्रदेश।	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया है।	

[सं. 76/म.प्र.-वि.स./85(16)]

ELECTION COMMISSION OF INDIA

New Delhi, the 7th May, 1987

ORDER

O.N. 64.—Whereas the Election Commission is satisfied that the contesting candidate specified in Column (4) of the Table below at the General Election to the Madhya Pradesh Vidhan Sabha, 1985 as specified in Column (2) held from the constituency specified in column (3) against his name has failed to lodge the account of his election expenses as shown in column (5) of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidate has either not furnished and reason or explanation for the said failure even after due notice of the Election Commission, after considering the representation made by him, if any, is satisfied that he had no good reason or justification for said failure;

Now, therefore, in pursuance of section 10A of the said Act the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

TABLE

S. No.	Particulars of election	S. No. and name of constituency	Name and address of the contesting candidate	Reason of disqualification
1	2	3	4	5
1.	General Election to the M.P. Vidhan Sabha, 1985.	85-Sohagpur	Shri Zamauluddin Vill-Jagraha, Post. Amlai, Distt. Shahdol, M.P.)	Failed to lodge any account of election expenses.

[No. 76/MP-LA/85(16)]

आदेश

क्र. 65.—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट मध्य प्रदेश विधान सभा के लिए उप-निर्वाचन, 1986 के लिए जो, स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है, स्तम्भ (4) में उक्त नाम के विनिर्दिष्ट निर्वाचन लड़ने वाले अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्दीन बनाए गए नियमों द्वारा उक्त सारणी के स्तम्भ (5) में यथा उपर्युक्त रूप में अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहा है,

और उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण प्रस्तुत नहीं किया है या उनके द्वारा दिए गए अभ्यावेदन पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है,

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को सदस्य के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी

क्रम सं.	निर्वाचन का विवरण	निर्वाचन-क्षेत्र की संख्या व नाम	अभ्यर्थी का नाम व पता	निराहता का कारण
1	2	3	4	5
1.	मध्य प्रदेश विधान सभा के लिए उप-निर्वाचन, 1986	239-भोपाल दक्षिण	श्री मधुकर गायकवाड़ रोड नं. 29-अ, अम्बेडकर नगर, भोपाल ।	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया ।
2.	मध्य प्रदेश विधान सभा के लिए उप निर्वाचन, 1986	239-भोपाल दक्षिण	श्री महदी हसन, 54, टोल वाली मस्जिद, भोपाल	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया ।
3.	वही	244-बरेली	कृष्णणा, वाड़ नं. 10, चोपड़ा मोहल्ला, रायसेन, मध्य प्रदेश ।	-वही-

[सं. 76/म.प्र.-वि.स./86(उप. निर्वा.)]

आदेश से,

बलवंत सिंह, अधीक्षक सचिव

ORDER

O.N. —Whereas the Election Commission is satisfied that the contesting candidates specified in column (4) of the Table below at the Bye-election to the Madhya Pradesh Vidhan Sabha, 1986 as specified in column (2) held from the constituency specified in column (3) against their name have failed to lodge the account of his election expenses as shown in column (5) of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidates have either not furnished any reason or explanation for the said failure even after

due notice of the Election Commission, after considering the representation made by them if any, is satisfied that they had no good reason or justification for said failure;

Now, therefore, in pursuance of section 10A of the said Act the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being member of either House of the Parliament or the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

TABLE

Sl. No.	Particulars of election.	Sl. No. and name of constituency	Name & address of the Contesting Candidates.	Reason of disqualification.
1	2	3	4	5
1.	Bye-Election to the Madhya Pradesh Vidhan Sabha, 1986.	239-Bhopal South	Shri Madhukar Gaikwad, Shed No. 29-A Ambedkar Nagar, Bhopal (M.P.)	Failed to lodge any account of election expenses.
2.	-do-	-do-	Shri Mahadi Hasan 54, Tal Wali, Masjid, Bhopal, (M.P.)	-do-
3.	-do-	244-Bareilly	Krishna, Ward No. 10, Chopra Mohalla, Raikot, (M.P.)	-do-

[No. 76/MP-LA/86 (BYE)]

By Order,

BALWANT SINGH, Under Secy.

आदेश

क्र.आ. 66.—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट उत्तर प्रदेश विधान सभा के लिए साधारण निर्वाचन, 1985 के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाले अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तख्तीन बनाए गए नियमों द्वारा उक्त सारणी के स्तम्भ (5) में यथा उपदर्शित रूप में अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहा है;

और उक्त अभ्यर्थियों ने सम्यक् मूखता दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण प्रथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए प्रस्तावों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है;

अतः, अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा प्रथवा विधान परिषद के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी

क्रम सं.	निर्वाचन की विशिष्टियाँ	निर्वाचन-क्षेत्र की क्रम सं. एवं नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम व पता	निरर्थता का कारण
1	2	3	4	5
1.	उत्तर प्रदेश विधान सभा के लिए साधारण निर्वाचन, 1985	18—ग्रामपुर	श्री हरी सिंह, ग्राम खुजिस्तानगर, पोस्ट नसीरपुर बनवारी, जिला बिजनौर (उत्तर प्रदेश)	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया।
2.	—वही—	19—अफजलगढ़	श्रीमती मुन्नी, ग्राम व.पो. सरकड़ा जिला बिजनौर (उत्तर प्रदेश)	निर्वाचन व्ययों का लेखा समय के अन्दर तथा अपेक्षित रीति से दाखिल नहीं किया।
3.	—वही—	21—तजीबाबाद (म.जा.)	श्री रोशन सिंह, पण्डा सिंह, खालापार, ताहनुपुर, जिला बिजनौर (उत्तर प्रदेश)	—वही—
4.	—वही—	—वही—	श्री असवन्त सिंह, आगन सिंह, निवासी गुरूल-दहरपुर उर्फ मिर्जापुर, जिला बिजनौर (उ.प्र.)	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया
5.	—वही—	—वही—	श्री रामस्वरूप सिंह, अमन लाल मोहल्ला रवापुरा, ताहनुपुर, जिला बिजनौर (उत्तर प्रदेश)	—वही—
6.	—वही—	—वही—	श्री. रूप सिंह, मुखया, नि. खामपुर, डा. नांगल, जिला बिजनौर (उत्तर प्रदेश)	—वही—

1	2	3	4	5
7.	उत्तर प्रदेश विधान सभा के लिए साधारण निर्वाचन, 1985	29—बाँवपुर	श्री अश्वुल मन्तान, ग्राम नसीरपुर नैनसिंह, पोस्ट शेरपुर कल्याण, जिला बिजनौर (उत्तर प्रदेश)	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया।
8.	—वही—	—वही—	श्री राजपाल सिंह, ग्राम लतीफपुर चुबेड़ी, पोस्ट औगाबाव जिला बिजनौर (उत्तर प्रदेश)	—वही—
9.	—वही—	24—काँठ	श्री ओम राज सिंह, ग्राम खलीलपुर कदीम जिला मुरादाबाद (उत्तर प्रदेश)	—वही—
10.	—वही—	—वही—	श्री तेजपाल सिंह, ग्राम बेगमपुर, जिला मुरादाबाद (उत्तर प्रदेश)	—वही—
11.	—वही—	40—बिसौली	श्री अदल सिंह, ग्राम फतेहपुर नत्पा नीमरी अम्बपुर खुद, पो. बिसौली, जिला मुरादाबाद (उत्तर प्रदेश)	—वही—
12.	—वही—	—वही—	श्री दीन बपाल, ग्राम व पो. मन्तूनगर, जिला मुरादाबाद (उत्तर प्रदेश)	—वही—
13.	—वही—	—वही—	श्री राम बहादुर, ग्राम व पो. मन्तूनगर, जिला मुरादाबाद, (उत्तर प्रदेश)	—वही—
14.	—वही—	—वही—	श्री विनोद कुमार मिश्र, स्थान व पोस्ट इस्लामनगर, जिला मुरादाबाद (उत्तर प्रदेश)	—वही—
15.	—वही—	40—बिसौली	श्री सरवन लाल, ग्राम नरोरी नरोरा, डा. मोहकमपुर, जिला मुरादाबाद, (उत्तर प्रदेश)	—वही—
16.	—वही—	43—बिसौली (म. जा.)	श्री अहलकार, ग्राम व पोस्ट सतेतीगजा, जिला बदायूं (उत्तर प्रदेश)	—वही—
17.	—वही—	44—बदायूं	श्री अनिल कुमार, मो. बाहू खजूर, बदायूं, जिला बदायूं (उत्तर प्रदेश)	—वही—

1	2	3	4	5
18.	उत्तर प्रदेश विधान सभा के लिए साधारण निर्वाचन 1985	-वही-	श्री किशोरी लाल, मो. साहूकारा, उमाना, जिला बदायूं (उत्तर प्रदेश)	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया।
19.	-वही-	-वही-	श्री वजेश कुमार, भांजी टोला, बदायूं, जिला बदायूं (उत्तर प्रदेश)	-वही-
20.	-वही-	-वही-	श्री राजेन्द्र कुमार, ग्राम अन्नी, डा. भरकईया, जिला बदायूं (उत्तर प्रदेश)	-वही-
21.	-वही-	-वही-	श्री मरय पाव सिंह, ग्राम हरपालपुर, डा. दुसैनपुर खड़ा, तह. व जिला बदायूं (उत्तर प्रदेश)	-वही-
22.	-वही-	45-उसहृत	श्री द्वारिका, नि. व डा. चितौरा धनौरा, जिला बदायूं	निर्वाचन व्ययों का लेखा अपे- क्षित रीति से दाखिल नहीं किया।
23.	-वही-	121-अमेठी	श्री रामदास, ग्राम लोनियापुर, पोस्ट अमेठी, जिला सुलतानपुर (उत्तर प्रदेश)	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया।
24.	-वही-	125-सुलतानपुर	श्री सतेन्द्र सिंह, ग्राम व पोस्ट धम्मोर, जिला सुलतानपुर (उत्तर प्रदेश)	-वही-
25.	-वही-	207-नाथूपुर	श्री मोती, ग्राम सराय ककूलत, पो. घोसी, जिला आजमगढ़ (उत्तर प्रदेश)	-वही-
26.	-वही-	-वही-	श्री राम नारायण, ग्राम माउखेला, पो. घोसी, जिला आजमगढ़ (उ. प्र.)	-वही-
27.	-वही-	-वही-	श्री रामयादी, ग्राम मिश्रौली, पो. मोलनापुर, जिला आजमगढ़ (उत्तर प्रदेश)	-वही-
28.	-वही-	-वही-	श्री रवीन्द्र, ग्राम महुई, पो. फतहपुरताल-रतोय, जिला आजमगढ़ (उत्तर प्रदेश)	-वही-
29.	-वही-	-वही-	श्री विनोद, ग्राम हंसापुर, पो. कोपागंज, जिला आजमगढ़ (उत्तर प्रदेश)	-वही-
30.	-वही-	208-घोसी	श्री घनश्याम राय, ग्राम व पोस्ट सूरजपुर, जिला आजमगढ़ (उ. प्र.)	-वही-
31.	-वही-	-वही-	श्री राधारमण ग्राम टडियाथ, पोस्ट कल्याणपुर, जिला आजमगढ़ (उ. प्र.)	-वही-

1	2	3	4	5
32.	उत्तर प्रदेश विधान सभा के लिए साधारण निर्वाचन 1985	208—बोसी	श्री राम चन्द्र, ग्राम गंगावल्ली, पोस्ट नदवा सराय, जिला आजमगढ़ (उ. प्र.)	निर्वाचन व्ययों का कोई लेखा वाखिल नहीं किया।
33.	—वही—	—वही—	श्री रामानन्द, ग्राम ब पोस्ट अमिला कायस्थ टोला, जिला आजमगढ़ (उ. प्र.)	—वही—
34.	—वही—	—वही—	श्री सछुमन ग्राम जयरामगढ़, पोस्ट कोपागंज, जिला आजमगढ़ (उ. प्र.)	—वही—
35.	—वही—	—वही—	श्री शमसुद्दीन, ग्राम भिखारीपुर, पोस्ट भोपीरा, जिला आजमगढ़ (उ. प्र.)	—वही—
36.	—वही—	209—सगड़ी	श्री राज कुमार, ग्राम मसुरियापुर, पो. नैनीजोर, जिला आजमगढ़ (उ. प्र.)	—वही—
37.	—वही—	—वही—	श्री सुन्दर बली राग (सहवली), ग्राम पलिया श्रीरामपुर, पो. जमीन रसूलपुर, जिला आजमगढ़ (उ. प्र.)	—वही—
38.	—वही—	—वही—	श्री सुरेश ग्राम शाहडीह, पो. देवारा खास राजा, जिला आजमगढ़ (उ. प्र.)	—वही—
39.	—वही—	210—गोपालपुर	श्री जमरू, ग्राम उकरोड़ा, पोस्ट हाफिजपुर, जिला आजमगढ़ (उ. प्र.)	—वही—
40.	—वही—	—वही—	श्री बिलोकी नाथ राय, ग्राम तेन्दुआ, पोस्ट बिलरियागंज, जिला आजमगढ़ (उ. प्र.)	—वही—
41.	—वही—	—वही—	श्री खुल अमीन, ग्राम ब पोस्ट जेराजपुर जिला आजमगढ़ (उ. प्र.)	—वही—
42.	—वही—	211—आजमगढ़	श्री केदार, ग्राम खुटोली पोस्ट बीबीपुर, जिला आजमगढ़ (उ. प्र.)	—वही—
43.	—वही—	—वही—	श्री राज सागर, ग्राम कोठीहार, पोस्ट ओरा, जिला आजमगढ़ (उ. प्र.)	—वही—
44.	—वही—	—वही—	श्री शिव शंकर, ग्राम ब पोस्ट टीकापुर जिला आजमगढ़ (उ. प्र.)	—वही—
45.	—वही—	212—निजामाबाद	श्री चन्द्र भूषण ग्राम बिलौरी, पो. अचमईदपुर, जिला आजमगढ़ (उ. प्र.)	—वही—
46.	—वही—	—वही—	श्री शिव शंकर, पो. पाण्डेय बाजार, शहर आजमगढ़, जिला आजमगढ़ (उ. प्र.)	—वही—

1	2	3	4	5
47.	उत्तर प्रदेश विधान सभा के लिए साधारण निर्वाचन, 1985	212-निजामाबाद	श्री पूर्णमासी, मो. आरजी बाग, शहर आजमगढ़, जिला आजमगढ़ (उ. प्र.)	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया।
48.	-वही-	213-अतरीलिया	श्री अब्दुल लतीफ, मोहल्ला जोलहा, टोला, पोस्ट अतरीलिया, जिला आजमगढ़ (उत्तर प्रदेश)	-वही-
49.	-वही-	-वही-	श्रीमती प्रेमबाला, ग्राम फरहाबाद, पोस्ट निजामाबाद, जिला आजमगढ़ (उ. प्र.)	-वही-
50.	-वही-	-वही-	श्री वीरेन्द्र, ग्राम जलालपुर पोस्ट कोठावा जलालपुर, जिला आजमगढ़ (उ. प्र.)	-वही-
51.	-वही-	-वही-	श्री राम कुमार यादव, ग्राम व पोस्ट पकडडोहा, जिला आजमगढ़ (उ. प्र.)	-वही-
52.	-वही-	214-फूलपुर	श्री अशोक कुमार सिंह, उर्फ उधम सिंह, ग्राम दाउदपुर, पोस्ट जगदीशपुर, जिला आजमगढ़ (उत्तर प्रदेश)	-वही-
53.	-वही-	-वही-	श्री एजाज, ग्राम फदगुदिया, पो. अम्बारी, जिला आजमगढ़ (उ. प्र.)	-वही-
54.	-वही-	-वही-	श्री परमहंस यादव, ग्राम बेल्होली सोनबरसा, पोस्ट रसूलपुर, जिला आजमगढ़ (उत्तर प्रदेश)	-वही-
55.	-वही-	-वही-	श्री परवेज, ग्राम व पो. छिस्तेपुर, जिला आजमगढ़ (उ. प्र.)	-वही-
56.	-वही-	-वही-	श्री महात्म, ग्राम अरुसा, पोस्ट अहरोला, जिला आजमगढ़ (उ. प्र.)	-वही-
57.	-वही-	-वही-	श्री रामबली, ग्राम सलारपुर, पो. पवई जिला आजमगढ़ (उ. प्र.)	-वही-
58.	-वही-	-वही-	श्री सूर्यभान पुत्र श्री रामजी, ग्राम मेढ़ी, पो. टीकापुर, जिला आजमगढ़ (उ. प्र.)	-वही-
59.	-वही-	216-मेहनगर (अ. जा.)	श्रीमती शान्ती, ग्राम देवारा जदीद (2) पो. जोडवावर, जिला आजमगढ़ (उत्तर प्रदेश)	-वही-
60.	-वही-	217-तालगंज	श्री रामाश्रय, ग्राम हदिसा बायलपुर, पो. असवनिया, जिला आजमगढ़ (उ. प्र.)	-वही-

1	2	3	4	5
61.	उत्तर प्रदेश विधान सभा के के लिए साधारण निर्वाचन, 1985	217—लालगंज	श्री विन्धवासिनि, ग्राम ब पोस्ट बिरकिहिट, जिला आजमगढ़ (उ. प्र.)	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया
62.	-वही-	218—मुबारकपुर	श्री प्रेमचन्द, ग्राम नोनियापुर, पो. सुखुरपुर, जिला आजमगढ़ (उ. प्र.)	-वही-
63.	-वही-	-वही-	श्री प्यारेलाल, ग्राम फरहाबाद, पो. निजासाबाद, जिला आजमगढ़ (उ. प्र.)	-वही-
64.	-वही-	-वही-	श्री बीरेन्द्र तिवारी, ग्राम टिपक्काबाद, पो. सुखुरपुर, जिला आजमगढ़ (उ. प्र.)	-वही-
65.	-वही-	219—मुहम्मदाबाद (गोरना अ० जा०)	श्री रामनीमी, ग्राम बरईपुर, पोस्ट मुहम्मदाबाद, जिला आजमगढ़ (उ. प्र.)	-वही-
66.	-वही-	-वही-	श्री विन्ध्यावल, मु. गोलबार टोला, पो. मुहम्मदाबाद (उत्तर प्रदेश)	-वही-
67.	-वही-	220—मऊ	श्री कुलदीप सिंह ग्राम जमदीपुर, पो. मठमुहम्मद, जिला बलिया (उ. प्र.)	-वही-
68.	-वही-	-वही-	श्री पाखण्डी ग्राम सुअरा बोझ, पो. पीपरीडीह, जिला आजमगढ़ (उ. प्र.)	-वही-
69.	-वही-	-वही-	श्री बालचन्द्र, मो. मराय लखन्सी, पो. मऊनाथ- भजन, जिला आजमगढ़ (उ. प्र.)	-वही-
70.	-वही-	-वही-	श्री मुन्तासिंह, ग्राम खन्डेरायपुरपो. बगलीपिजड़ा, जिला आजमगढ़, (उ. प्र.)	-वही-
71.	-वही-	-वही-	श्री रामप्रवतार, ग्राम तियरा, पो. महराबन्वा, जिला आजमगढ़ (उ. प्र.)	-वही-
72.	-वही-	-वही-	श्री सुरेन्द्र प्रताप, मिसन कम्पाउन्ड जादातपुर मऊनाथ- भजन, जिला आजमगढ़ (उ. प्र.)	-वही-
73.	-वही-	-वही-	श्री भानु प्रताप, ग्राम ब पो. ताजोपुर, जिला आजमगढ़ (उ. प्र.)	-वही-
74.	-वही-	243—वाराणसी उत्तरी	श्री सुन्नर, ग्राम ब पोस्ट धीरहरा, जिला वाराणसी (उ. प्र.)	-वही-

1	2	3	4	5
75.	उत्तर प्रदेश विधान सभा के लिए साधारण निर्वाचन, 1985	247—ओराई	श्री बिजैबहादुर, ग्राम बहुतरा खुर्द पो. सरवत खामी, जिला वाराणसी (उ. प्र.)	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया।
76.	—वही—	292—कल्यानपुर	श्री जोगेसिंह उर्फ जगत सिंह 25/19 कराचीखाना कानपुर (उ. प्र.)	—वही—
77.	—वही—	321—हमीरपुर	श्री नाथू उर्फ नाथूराम, ग्राम पन्खुरा, बुजुर्ग तह. व जिला हमीरपुर (उत्तर प्रदेश)	निर्वाचन व्ययों का लेखा समय के अन्दर तथा रीति से दाखिल नहीं किया।
78.	—वही—	322—मोदहा	श्री मजिया कोरी, ग्राम व पोस्ट महरोली, जिला हमीरपुर (उ. प्र.)	निर्वाचन व्ययों का कोई लेखा दाखिल नहीं किया।
79.	—वही—	323—राठ	श्री किशन प्रसाद, ग्राम व पो. बरोली बरका, जिला हमीरपुर (उ. प्र.)	—वही—
80.	—वही—	384—खुलन्दशहर	श्री राजपाल, 116, नवयुग मार्किट, प्रथम तल, गाजियाबाद, जिला गाजियाबाद (उत्तर प्रदेश)	—वही—

[सं. 76/उ. प्र. वि. सं./85 (15)]

ORDER

O.N. 65.—Where as the Election Commission is satisfied that each of the contesting candidate specified in column(4) of the Table below at the General Election to the Uttar Pradesh Legislative Assembly, 1985 specified in column (2) held from the constituency specified in column (3) against his name has failed to lodge the account of his election expenses as shown in column (5) of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, Whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice of the Election Commission or after considering the representations made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the persons specified in column(4) of the Table below to be disqualified for being chosen as, and for being, a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

TABLE

Sl. No.	Particulars of election	S. No. & Name of constituency	Name & address of the contesting candidate	Reason for disqualification
1	2	3	4	5
1.	General Election to the U.P. Legislative Assembly, 1985.	18-Dhampur	Shri Hari Singh, Vill. Khailstanagar, P.O. Nasirpur Banwari, Distt. Bijnor (U.P.)	Failed to lodge any account of election expenses.
2.	-do-	19-Afzalgarh	Smt. Munni, Vill. & P.O. Shirkara, Distt. Bijnor (U.P.)	Failed to lodge the account of election expenses within the time and in the manner.
3.	-do-	21-Nazibabad (SC)	Shri Rohan Singh, Panda Singh, Khalapur, Sahanpur, Distt. Bijnor (U.P.)	-do-

1	2	3	4	5
4.	General Election to the U.P. Legislative Assembly, 1986.	21-Nazibabad	Shri Jaswant Singh Jagan Singh, R/o Nural-Dharapur urf Mirzapur, Distt. Bijnor (U.P.)	Failed to lodge any account of election expenses.
5.	-do-	-do-	Shri Ramswarup Singh, Jhman Lal, Moh. Rawapura, Sahahanpur, Distt. Bijnor (U.P.)	-do-
6.	-do-	-do-	Shri Roop Singh, Shukhya, Vill Khanpur, P.O. Nangal, Distt. Bijnor (U.P.)	-do-
7.	-do-	23-Chandpur	Shri Abdul Manan, Vill. Nashirpur Nainsingh, P.O. Sherpur Kalyan, Distt. Bijnor (U.P.)	-do-
8.	-do-	-do-	Shri Ramesh Singh, VIII. Latifpur Chukheri, P.O. Aurangabad, Distt. Bijnor (U.P.)	-do-
9.	-do-	24-Kanth	Shri Om Raj Singh, Vill-Khalilpur, Kadir, Distt. Moradabad (U.P.)	-do-
10.	-do-	-do-	Shri Tej Pal Singh, Vill. Begampur, Distt. Moradabad (U.P.)	-do-
11.	-do-	40-Bisoli	Shri Adal Singh, Vill. Fathepur Nattha, Neemri Abupur Khurd, P.O. Bilari, Distt. Moradabad (U.P.)	-do-
12.	-do-	-do-	Shri Din Dayal, Vill. & P.O. Ashafpur, Distt. Moradabad (U.P.)	-do-
13.	-do-	-do-	Shri Ram Bahadur, Vill. & P.O. Mannunagar, Distt. Moradabad (U.P.)	-do-
14.	-do-	-do-	Shri Vinod Kumar Mishra, Vill. & P.O. Islamnagar, Distt. Moradabad (U.P.)	-do-
15.	-do-	-do-	Shri Sarwan Lal, Vill. Narori Narora, P.O. Mohakampur Distt. Moradabad (U.P.)	-do-
16.	-do-	43-Bilsi (S.C.)	Shri Ahalkar, Vill. & P.O. Shateti Gala, Distt. Moradabad (U.P.)	-do-
17.	-do-	44-Badaun	Shri Anil Kumar, Moh. Chah Khajur, Budaun, Distt. Badaun (U.P.)	-do-
18.	-do-	-do-	Shri Kishori Lal, Moh. Sahukara, Ujhani Distt. Badaun (U.P.)	-do-
19.	-do-	-do-	Shri Brijesh Kumar, Bhanji Tola, Budaun Distt. Badaun (U.P.)	-do-
20.	-do-	-do-	Shri Rajendra Kumar, Vill. Anni, P.O. Bharkaiya, Distt. Badaun (U.P.)	-do-

1	2	3	4	5
21.	General Election to the U.P. Legislative Assembly, 1985.	44-Badaun	Shri Satya Pal Singh, Vill. Harpalpur, P.O. Hussainpur Kueda, Teh. & Distt. Badaun (U.P.)	Failed to lodge any account of election expenses.
22.	-do-	45-Uschat	Shri Dwarika, Residence & P.O. Chitora, Dhanora, Distt. Badaun (U.P.)	Failed to lodge the account in the manner.
23.	-do-	121-Amethi	Shri Ram Dass, Vill. Loniapur, P.O. Amethi, Distt. Sultanpur (U.P.)	Failed to lodge any account of election expenses.
24.	-do-	125-Sultanpur	Shri Satyandra Singh, Vill. & P.O. Dhammor, Distt. Sultanpur (U.P.)	-do-
25.	-do-	207-Natthupur	Shri Moti, Vill. Saray Kakulat, P.O. Ghosi Distt. Azamgarh (U.P.)	-do-
26.	-do-	-do-	Shri Ram Narayan, Vill. Maubhoji, P.O. Ghosi Distt. Azamgarh (U.P.)	-do-
27.	-do-	-do-	Shri Ram Yadi, Vill. Mishrali, P.O. Molnapur, Distt. Azamgarh (U.P.)	-do-
28.	-do-	-do-	Shri Rabintra, Vill. Mahui, P.O. Fatehpuratal-Ratoy, Distt. Azamgarh (U.P.)	-do-
29.	-do-	-do-	Shri Vinod, Vill. Hanshapur, P.O. Kopaganj, Distt. Azamgarh (U.P.)	-do-
30.	-do-	208-Ghosi	Shri Ghanshyam Roy, Vill. & P.O. Surajpur, Distt. Azamgarh (U.P.)	-do-
31.	General Election to the U.P. Legislative Assembly, 1985.	20-Ghosi	Shri Radharaman, Vill. Tadiyanw, P.O. Kalyanpur, Distt. Azamgarh (U.P.)	-do-
32.	-do-	-do-	Shri Ram Chandra, Vill. Gangayabbi, P.O. Nandwa Surai, Distt. Azamgarh (U.P.)	-do-
33.	-do-	-do-	Shri Ramchand, Vill. - P.O. Amila Kayastha Tola, Distt. Azamgarh (U.P.)	-do-
34.	-do-	-do-	Shri Laxman, Vill. Jairamgarh, P.O. Kopaganj, Distt. Azamgarh (U.P.)	-do-
35.	-do-	-do-	Shri Shamsuddin, Vill-Bhalkharipur, P.O. Bhopora, Distt. Azamgarh (U.P.)	-do-

1	2	3	4	5
36.	General Election to the U.P. Legislative Assembly, 1985	209-Sagri	Shri Raj Kumar, Vill. Musuriapur, P.O. Nainjor, Distt. Azamgarh (U.P.)	Failed to lodge any account of election expenses.
37.	-do-	-do-	Shri Sulerbali Ram (Jahbali) Vill. Palia Shrirampur, P.O. Jamin Rasulpur, Distt. Azamgarh (U.P.)	-do-
38.	-do-	-do-	Shri Suresh, Vill. Shuhdi, P.O. Dewara Khash Raja, Distt. Azamgarh (U.P.)	-do-
39.	-do-	210-Gopalpur	Shri Chamaru, Vill. Okhrota, P.O. Hafizpur, Distt. Azamgarh (U.P.)	-do-
40.	-do-	-do-	Shri Trilok Nath Rai, Vill.-Tenduya, P.O. Bilraganj, Distt. Azamgarh (U.P.)	-do-
41.	-do-	-do-	Shri Ruhul Amin, Vill. & P.O. Jeraipur, Distt. Azamgarh (U.P.)	-do-
42.	-do-	211-Azamgarh	Shri Kedar, Vill. Khutoli, P.O. Bibipur, Distt. Azamgarh (U.P.)	-do-
43.	-do-	-do-	Shri Ram Sugar, Vill. Kotihar, P.O. Ora Distt. Azamgarh (U.P.)	-do-
44.	-do-	-do-	Shri Shiv Shankar, Vill. & P.O. Tikapur, Distt. Azamgarh (U.P.)	-do-
45.	-do-	212-Nizamabad	Shri Chandra Bhusan, Vill. Diloni, P.O. Abusaidpur, Distt. Azamgarh (U.P.)	-do-
46.	-do-	-do-	Shri Shiv Shankar, Moh. Pandey Bazar, Azamgarh City, Distt. Azamgarh (U.P.)	-do-
47.	-do-	-do-	Shri Pooranmisl, Moh. Arazl Bagh, Azamgarh City, Distt. Azamgarh (U.P.)	-do-
48.	-do-	213-Atraulia	Shri Abdul Latif, Moh. Jolha Tola, P.O. Atraulia, Distt. Azamgarh (U.P.)	-do-

1	2	3	4	5
49.	General Election to the U.P. Legislative Assembly, 1985.	213-Atraulia	Smt. Prem Bala, Vill. Farahabad, P.O. Nijamabad, Distt. Azamgarh (U.P.)	Failed to lodge any account of election expenses.
50.	-do-	-do-	Shri Virander, Vill. Jalalpur, P.O. Kotawa Jalalpur, Distt. Azamgarh (U.P.)	-do-
51.	-do-	-do-	Shri Ram Kumar Yadav, Vill. & P.O. Pakardoh, Distt. Azamgarh (U.P.)	-do-
52.	-do-	214-Phulpur	Shri Ashok Kumar Singh urf Udhram Singh, Vill. Daudpur, P.O. Jagadishpur, Distt. Azamgarh (U.P.)	-do-
53.	-do-	-do-	Shri Abiz, Vill. Fadgudiya, P.O. Ambari, Distt. Azamgarh (U.P.)	-do-
54.	-do-	-do-	Shri Paramhansa Yadav, Vill. Beloli Sonbarsa, P.O. Rasulpur, Distt. Azamgarh (U.P.)	-do-
55.	-do-	-do-	Shri Parwez, Vill. & P.O. Chittepur, Distt. Azamgarh (U.P.)	-do-
56.	-do-	-do-	Shri Mahutam, Vill. Arushi, P.O. Ahrola, Distt. Azamgarh (U.P.)	-do-
57.	-do-	-do-	Shri Ramkali, Vill. Salarpur, P.O. Pabai Distt. Azamgarh (U.P.)	-do-
58.	-do-	-do-	Shri Suryabhan S/o Shri Ramji, Vill. Medi P.O. Tikapur, Distt. Azamgarh (U.P.)	-do-
59.	-do-	216-Mehragar (SC)	Smt. Shanti, Vill. Diwara Jadid (2); P.O. Jorbabar, Distt. Azamgarh (U.P.)	-do-
60.	-do-	217-Lalganj	Shri Ramshraya, Vill. Hadisha Dayalpur, P.O. Jaswania, Distt. Azamgarh (U.P.)	-do-

1	2	3	4	5
61.	General Election to the U.P. Legislative Assembly, 1985.	217-Lalganj	Shri Rimdhwashni, Vill. & P.O. Chirkhit, Distt. Azamgarh (U.P.)	Failed to lodge any account of election expenses.
62.	-do-	218-Mubarakpur	Shri Prem Chand, Vill. Nainiyapur, P.O. Surharpur, Distt. Azamgarh (U.P.)	-do-
63.	-do-	-do-	Shri Pyare Lal, Vill. Farhabad, P.O. Nizamabad, Distt. Azamgarh (U.P.)	-do-
64.	-do-	-do-	Shri Birendra Tiwari, Vill. Tipakabad, P.O. Shurharpur, Distt. Azamgarh (U.P.)	-do-
65.	-do-	219-Mohammadabad Gohna (SC)	Shri Ramnaumi, Vill. Baraipur, P.O. Mohammadabad, Distt. Azamgarh (U.P.)	-do-
66.	-do-	-do-	Shri Vindhychal, Moh. Golbar Tola, P.O. Mohammadabad, Distt. Azamgarh (U.P.)	-do-
67.	-do-	220-Mau	Shri Kuldip Singh, Vill. Jamdipur, P.O. Math Mohammadpur, Distt. Ballia (U.P.)	-do-
68.	-do-	-do-	Shri Pakhandi, Vill. Suarabajh, P.O. Pipridiha, Distt. Azamgarh (U.P.)	-do-
69.	-do-	-do-	Shri Bal Chandra, Moh. Sarai Lakhansi P.O. Maunathbhanjan, Distt. Azamgarh (U.P.)	-do-
70.	-do-	-do-	Munna Singh, Vill. Khanderapur, P.O. Bagri Pijara, Distt. Azamgarh (U.P.)	-do-
71.	-do-	-do-	Shri Ram Avtar, Vill. Tiwara, P.O. Moharabandha, Distt. Azamgarh (U.P.)	-do-
72.	-do-	-do-	Shri Surendra Pratap, Mission compound Shadatpur, Maunathbhanjan, Distt. Azamgarh (U.P.)	-do-
73.	-do-	-do-	Shri Bhanupratap, Vill. & P.O. Tajapur, Distt. Azamgarh (U.P.)	-do-

1	2	3	4	5
74.	General Election to the U.P. Legislative Assembly, 1985.	243 Varanasi North	Shri Sunnar, Vill ; P.O. Dhourhara, Distt. Varanasi (U.P.)	Failed to lodge any account of election expenses.
75.	-do-	247-Aurai	Shri Bijie Bhadur, Vill-Bahulara Khurd, P.O. Sarbat Kani, Distt. Varanasi (U.P.)	-do-
76.	-do-	292-Kalyanpur	Shri Jage Singh alias Jagat Singh, 25/19, Karachikhana, Kanpur (U.P.)	-do-
77.	-do-	321-Hamirpur	Shri Nathu alias Nathu Ram, Vill-Pachkhura Bujurg, Teh. & Distt. Hamirpur (U.P.)	Failed to lodge the account within the time & in the manner required by law.
78.	-do-	322-Maudaha	Shri Mania Kori, Vill & P.O. Mahrauli, Distt. Hamirpur (U.P.)	Failed to lodge any account of election expenses.
79.	-do-	323-Rath	Shri Kishan Prasad, Vill & P.O. Baroli Barka, Distt. Hamirpur (U.P.)	-do-
80.	-do-	384-Bulandshahr	Shri Raj Pal, 116, Navyug Market, First Floor, Ghaziabad, Distt. Ghaziabad (U.P.)	-do-

[No. 76/UP.-LA/85(15)]
SURAJ PARKASH, Under Secy.

नई दिल्ली, 22 मई, 1987

आ. प्र. 67:—1985 की निर्वाचन याचिका संख्या 8 में उक्त स्याया-लय, हलाह्लाबाद के दिनांक 4-9-1986 के निर्णय के विरुद्ध दाखिल की गई 1986 की सिविल अपील संख्या 4385 (एन. सी. ई.) में भारत के उच्चतम न्यायालय के दिनांक 1-12-1986 के आदेश को लोक प्रति-निधित्व अधिनियम 1951 (1951 का 43) की धारा 116 (2) (ख) के अनुसरण में निर्वाचन आयोग एतद्वारा प्रकाशित करता है।

[संख्या 82/उ. प्र.-लो. स./8/85 (हला.)]

आदेश से,

सुरज प्रकाश, अव्वर सचिव

New Delhi, the 22nd May, 1987

O.N. 67.—In pursuance of Clause (b) of sub-section (2) of section 116-C of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the order dated the 1st December, 1986 of the Supreme Court of India in Civil Appeal No. 4385 (NCE) of 1986 arising from the judgment dated the 4th September, 1986 of the High Court of Judicature at Allahabad in Election Petition, No. 8 of 1985.

[No. 82/UP-HP/8/85(Alld.)]

By Order

SURAJ PRAKASH, Under Secy.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 4385 (NCE) OF 1986

[IN S.L.P.(C) NO. 12031 OF 1986]

Dr. Behari Lal Shailesh

Appellant.

—Versus—

Sri Ram Nihore Rakesh and Ors.

Respondents.

ORDER

Special Leave granted.

After hearing counsel appearing on both sides, we consider that this is a case where the allegations of corrupt practices had not been properly pleaded because particulars and material facts were sadly lacking. The Civil Appeal is accordingly allowed. The order passed by the High Court is set aside and the Election Petition No. 8 of 1985 filed by the respondent before the High Court of Allahabad will stand dismissed. There will be no order as to costs.

Sd/-

(V. BALAKRISHNA ERADI)

Sd/-

(RANGANATH MISRA)

New Delhi.
December 1, 1986.

आ. अ. 68:—नेतृप्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग 1985 की नियोजन क्रम सं. 8 में इलाहाबाद उच्च न्यायालय के तारीख 2 जनवरी, 1987 के आदेश को उनके दिनांक 4-9-1986 के विस्तृत निर्णय सहित एतद्वारा प्रकाशित करता है।

[संख्या 82/उ प्र. — लो. म./8/85 (उप. 1)]

आदेश में,

सुरज प्रकाश, अधिवक्ता

O.N. 68.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Order dated the 2nd January, 1987 alongwith the detailed Judgment dated the 4th September, 1986 of the High Court of Judicature at Allahabad in Election Petition No. 8 of 1985

[No. 82-UP-HP.8(85) ALH.]

By Order,

SURAJ PARKASH, Under Secy

IN THE HIGH COURT OF JUDICATURE AT
ALLAHABAD
CIVIL SIDE

ORIGINAL JURISDICTION

Dated Allahabad the September 4, 1986

PRESENT :

The Hon'ble V. K. Mehrotra Judge

Election Petition No. 8 of 1985

Ram Nihore Rakesh...Vs....Dr. Behari Lal Shailesh
& others.

BY THE COURT

By notification published on November 20, 1984 under section 14(2) of the Representation of the People Act 1951 (briefly, the Act) various constituencies of the Lok Sabha were called upon to elect their representatives. In respect of 57 Chail (Reserved) constituency, the date of poll was December 24, 1984. Sri Ram Nihore Rakesh was a contesting candidate belonging to the Lok Dal party. Shri Dharam Vir was a contesting candidate set up by the Congress. (1). Shri Dharam Vir died on December 22, 1984 with the result that the entire election was counter amended by the Election Commissioner. Subsequently, another notification was issued fixing the necessary dates for holding election from the constituency. The last date for filing of nomination paper was January 4, 1985 and the last date of withdrawal was January 7, 1985. The date of poll was fixed as January 28, 1985.

After the last date of withdrawal, amongst seven contesting candidates, who were in the field, were included Ram Nihore Rakesh and Dr. Shailesh. The poll took place on January 28, 1985. Counting commenced on January 29 and the result was declared on January 30, 1985. The Returning Officer declared Dr. Shailesh as elected member of the Lok Sabha from the Constituency after the counting of votes. According to the declaration, Dr. Shailesh had received 1,50,306 while Ram Nihore Rakesh 1,46,886 votes. Out of a total number 3,27,828 which were polled in the election 8449 were declared to be invalid.

On March 15, 1985 petitioner Ram Nihore Rakesh presented Election Petition No. 8 of 1985 under section 80/81 of the Act in this Court. Apart from Dr. Shailesh, impleaded

as respondent No. 1, the other contesting candidates have been impleaded as respondents No. 2 to 6 in the petition.

In paragraph 10 of the petition have been set out the grounds on which the election of Dr. Shailesh is said to be void on account of the corrupt practice committed by him, his agents, workers and supporters with his consent on the date of poll. These are numbered as Ground Nos. (a) to (d). Thereafter, in paragraph 11, it has been mentioned that a concise statement of material facts and particulars in regard to these grounds was being given. The petition runs into 39 paragraphs. Paragraphs 12 to 35 purport to give there out. Then paragraph 36 says that, in as much as, the first respondent, his agent, workers and supporters with his consent had committed corrupt practice under section 123(2) of the Act, the election was liable to be set aside and that this court should disqualify the first respondent for six years. In paragraph 37 and 38 is a mention about the petition being filed within 45 days of the date of declaration of the result and of the deposit by petitioner Rakesh of the amount of security. Paragraph 39 mentions that 14 copies of the petition attested to be true were being filed and then follows the prayer clause seeking the setting aside of election of Dr. Shailesh and award of costs of the petition as against the contesting respondents. The petition is supported by an affidavit of petitioner Rakesh.

On November 28, 1985, the present application (A-15) was filed on behalf of Dr. Shailesh. The application has been made under Order VI Rule 16 and Order VII Rule 11 C.P.C. read with section 86 and 87 of the Representation of the people Act, 1951. The application is for striking out of certain paragraphs of the petition and for the dismissal of the election petition on that account. The application is supported by an affidavit sworn by Dr. Shailesh. It may be added that a written statement, running into as many as 75 paragraphs, verified by Dr. Shailesh on November 27, 1985, was also filed by the first respondent on November 28, 1985. This paper No A-16.

The present petition is based on the charged of corrupt practice of 'Undue influence. What are the material facts in respect of this corrupt practice of which a concise statement should be contained in the petition is the principal question to be examined in this application. But, before that :

THE LEGAL POSITION :

(a) Nature of charge and its proof :

"Charges of corrupt practices are quasi criminal in character, and the allegations relating thereto must be sufficiently clear and precise to bring home the charges to the candidates; "(Harish Chandra Bajpai Vs. (Triloki Singh & another (A.I.R. 1957 SC 444).

"The kind of corrupt practice which was perpetrated together with material facts on which a charge can be made out must be stated....Merely repeating the words of the statute does not amount to a proper statement of facts. If the material facts of the corrupt practice are stated, more or better particulars of the charge may be given later, but where the material facts themselves are missing, it is impossible to think that the charge has been made or can be later amplified." (Samant N. Balakrishna etc. Vs. George Fernandez & others, A.I.R. 1969 SC 1201).

"It is well settled that the charges of corrupt practice are to be equated with criminal charges and proof thereof would be not preponderance of probabilities as in civil action but proof beyond reasonable doubt as in criminal trials." (Surinder Singh vs. Hardial Singh and other—AIR 1983-89).

"If two views are reasonably possible-one-in-favour of the elected candidate and the other against him courts should not interfere with the expensive electoral process and instead of setting at naught the election of the winning candidate

should uphold his election giving him benefit of doubt. This is more so where allegations of fraud or undue influence are made.... Specific allegations, with facts and figures regarding the corrupt practices indulged in by the returned candidate, should be alleged in the election petition itself because the one of proving the corrupt practice lies entirely on the election petitioner who must demonstrably prove the same. *Ram Singh and others Vs. Col. Ram Singh A.I.R. 1986 SC 33*).

(b) What are material facts :

The material facts are facts which if established would give the petitioner relief asked for even if the respondent had not appeared. Material facts will show ground of corrupt practice and the complete cause of action (*Hardwari Lal v. Kanwal Singh—A.I.R. 1972 S.C. 515*).

The facts stated in the petition relating to any corrupt practice must be sufficient to constitute a cause of action. They should bring out all the ingredients of the corrupt practice alleged. If the facts stated fail to satisfy that requirement, then they do not give rise to a triable issue. [*Raj Narain Vs. Smt. Indira Nehru Gandhi and another (AIR) 1972 S.C. 1302*].

All the primary facts which must be proved at the trial by a party to establish the existence of a cause of action are material facts. In the context of a charge of corrupt practice, material facts would mean all the basic facts constituting the ingredients of the particular corrupt practice alleged which the petitioner is bound to substantiate before he can succeed on that charge. All the facts which are essential to cloth the petitioner with a complete cause of action are material facts which must be pleaded. (*Udhav Singh vs. Madhav Rao Sindhi—A.I.R. 1976 SC 744*).

The necessary facts and particulars and the statements of facts etc. are to be pleaded by the election petition with exactitude and precision. So far as the elected candidate is concerned, he is merely to rebut the allegations made by the petitioner in accordance with the provisions of the Civil Procedure Code, as far as practicable. (*Sultan Salauddin Owasi Vs. Mohd. Usman Shameed and other—A.I.R. 1980 SC. 1347*).

(c) The pleadings :

are to be read as a whole to ascertain the true import. It is not permissible to cull out a sentence or a passage and to read it out of the context, in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered, primarily, from the tenor and terms of his pleading taken as a whole. Construction of pleading after compartmentalisation, dissection, segregation and invasion of the language of the paragraph runs counter to the cardinal canon of interpretation. (*Udhav Singh vs. Madhav Rao Sindhi A.I.R. 1976 SC 744*).

An allegation regarding commission of a corrupt practice is to be read as a whole and not in a disjointed manner by tearing a line here or a line there from the context. The proper way to examine the pleading is to consider the substance of the allegation and not its mere form. It may be that a part of the allegation may be made in a separate sentence or sentences and it may also be that it may appear to be disjointed from the earlier allegation because of in artistic drafting but it is the substance of the allegation which is material and not its mere form. It is equally necessary that the allegation should be read as a whole and construed properly so as to understand its true nature and content (*K.M. Mani vs. P. J. Antony and others—A.I.R. 1979 SC 234*).

But, a person accused of corrupt practice must know precisely what he is accused of so that he may have the opportunity to meet the allegations made against him. If the accusation made is nebulous and is capable of being made use of for establishing more than one charge or if it does not make out a corrupt practice at all then the charge fails at the very threshold (*Raj Narain vs. Smt. Indira Nehru Gandhi and another A.I.R. 1972 SC 1302*).

The Statutory provisions :

Part VI of the Act deals with dispute regarding elections. Section 80 of the Act contemplates that "on election shall be called in question except by an election petition presented in accordance with the provisions of this Part". The material portion of section 81 was that an election petition "may be presented on one thereof the grounds specified in sub-section (1) of section 100". An election petition, under section 83, is to (1) contain a concise statement of the material facts on which the petitioner relies; (2).....set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and (c) be signed by the petitioner and verified in the manner laid down in the code of Civil Procedure for the verification of pleadings. In the proviso it has been further enshrined that where the petitioner alleged any corrupt practice, the petition is to be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof. Under section 86 the High Court is to dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117 of the petition.

Section 100 then says that :

100. Grounds for declaring election to be void (1) Subject to the provisions of sub-section (2) if (the high court) is of opinion—

- (a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act for the Government of Union Territories Act, 1963 (20 of 1963); or
- (b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or
- (c) that any nomination has been improperly rejected; or
- (d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—
 - (i) by the improper acceptance of any nomination, or
 - (ii) by any corrupt practice committed in the interests of the returned candidate (by an agent other than his election agent), or
 - (iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void; or
 - (iv) by any non-compliance with the provisions of the constitution or of this Act or of any rule or orders made under this Act,

(the High Court) shall declare the election of the returned candidate to be void.)

(2) If in the opinion of (the High Court) a returned candidate has been guilty by an agent, other than his election agent, of any, corrupt practice but (the High Court) is satisfied—

- (a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and (without the consent), of the candidate or his election agent;

* * * * *

- (c) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election; and

- (d) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents,

then (the High Court), may decide that the election of the returned candidate is not void."

Chapter I of part VII of the Act relates to corrupt practice. Section 123 lays down as to what shall be deemed to be corrupt practice for the purposes of the Act. Sub-section (2) of section 123, with which alone we are concerned in this petition as far as the charge of corrupt practice is concerned, is in the following terms;

"123. Corrupt Practice.—The following shall be deemed to be corrupt practices for the purposes of this Act :

(1)

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or at any other person (with the consent of the candidate or his election agent), with the free exercise of any electoral right ;

Provided that—

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

(i) threatens any candidate or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, sure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause ;

(b) a declaration of the public policy, or a prom of public action, or the mere exercise of a legal right without intent to interfere with an electoral right shall not be deemed to be interference within the meaning of this clause."

Before closing the consideration of the relevant statutory provisions a few more may be seen. Section 2(e) of the Act defines an 'elector' in relation to a Constituency to mean "a person whose name is entered in the electoral roll of that constituency for the time being in force and who is not subject to any of the disqualifications mentioned in section 16 of the Representation of the People Act, 1950. Section 62 deals with the right to vote and, amongst other things, provides that "no person who is not, and except as expressly provided by the Act every person who is for the time being entered in the electoral roll of any constituency shall be entitled to vote in that constituency." Section 79 which occurs in part VI relating to disputes regarding elections defines a candidate "in sub-section (b) as a person who has been or claimed to have been duly nominated as a candidate at any election while in sub-section (d) "electoral right" is defined to be "the right of a person to stand or not to stand as, or to withdraw or not to withdraw from being, a candidate, or to vote or refrain from voting at an election."

What has been urged by the learned counsel for Dr. Shailesh is that the present election petition is not a petition in the eye of law and does not disclose a cause of action. As such, it deserves to be dismissed forthwith. The precise submission is that he the grounds put forward in paragraph 10 of the petition, which talks of corrupt practice having been committed on the date of poll, that is, January 28, 1985, do not make out any charge of corrupt practice whatsoever, muchless of the charge of undue influence under section 123(2) of the Act. In any case, there is no concise statement of the material facts relating to any corrupt practice. In the petition as required by section 83(1)(a) of the Act. The petition, therefore, deserves to be

dismissed under section 86 (1) as disclosing no cause of action. Non-compliance with the requirement of section 83 furnishes a ground for dismissal of a petition under section 86 is what has been ruled by the Supreme Court in the case of Azhar Hussain Versus Rajiv Gandhi (1986 A.L.J. 62 SC).

The submission ultimately made was that even if all that was stated in the petition is accepted to be correct, it was doubtful whether Dr. Shailesh could be said to have consented to the commission of the so-called corrupt practice. The benefit of this doubt was available to Dr. Shailesh in view of the judgment of the Supreme Court in the case of Col. Ram Singh (A.I.R. 1986 S.C. 3). The petition did not deserve to be tried at all in that view of the matter.

Content of the charge of undue influence.—Section 123(2), which defines undue influence, says that there should be (a) any direct or indirect interference or attempt to interfere ; (b) on the part of the candidate or his agent or of any other person with the consent of the candidate or his election agent; (c) with the free exercise of any electoral right to constitute a charge of undue influence. The proviso then adds that every person of the category mentioned above who threatens any candidate or any elector or any person in whom a candidate or an elector is interested with injury of any kind or induces or attempts to induce them that he would incur divine displeasure or spiritual censure then it would be deemed to be interference with the free exercise of the electoral right of the candidate or the elector.

Counsel for Dr. Shailesh in analysed the provision to mean that for the charge to amount to a charge of undue influence there should be (a) a psychic content of threat; (2) existence of electoral right and (3) the element of compulsion, in other words, there should be no option but to vote or abstain from voting or to vote in a particular manner. According to his submission the last, namely, the element of compulsion had to be present and had to be alleged, for, if the choice still remained with the voter and there was absence of compulsion, so far he was concerned, it would not amount to a charge of undue influence.

Baburao Patel Versus Dr. Zakir Hussain (A.I.R. 1968 S.C. 904) was a case where the election of the President was challenged. One of the grounds was that the result of the election had been materially affected by reason of undue influence therat. Dealing with this aspect of the case the Supreme Court laid down—that canvassing for votes to be cast in favour of a candidate did not amount to undue influence and what was essential was the element of voluntary interference with the free exercise of any electoral right by threat of injury or inducement of the nature mentioned in the provision. The mere exercise of a legal right, without intent to interfere with a electoral right would not be undue influence. But, ultimately it is a question of fact in each case whether the circumstances stated in the charge were such as to amount to a threat or inducement interfering with an electoral right. In Laxhi Prasad Agrawal versus Natha Mal Dokania (A.I.R. 1969 S.C. 583) it was laid down by the Supreme Court that it was obligatory on a party setting up a case of corrupt practice by exercise of undue influence to give full particulars thereof by stating, inter alia, who attempted to exercise the threat or put forward the inducement. Also, that in order that a pleading may be sufficient to make out a case of undue influence, full particulars of it had to be mentioned under the provisions of section 83(1)(c) of the Act which could be compared with order VI Rule 4 C.P.C. The fact that the interference or an attempt at it should be such as to leave no choice to the elector in the matter was ruled by the Supreme Court in Manubhai Nandla Amersey Versus Popat Lal Manilal Joshi and others (A.I.R. 1969 S.C. 734).

Allegations in the petition-an analysis

The challenge to the election of Dr. Shailesh rests on four grounds enumerated in paragraph 10. They are :

- (a) Because, the respondent No. 1, his agents, workers and supporters with his consent committed the corrupt practice of undue influence as defined under section 123 (2) of the Representation of the People Act, 1951.

- (b) Because, the respondent No. 1, his agents, workers and supporters with his consent interfered with the free exercise of the electoral rights of the voters by extending threats of physical injury to voters, if they entered the polling booth to meet their votes.
- (c) Because, the respondent No. 1, his agents, workers and supporters with his consent prevented the polling agents of the petitioners to act as polling agents and keep a watch on the happenings inside the polling stations.
- (d) Because, the respondent No. 1, his polling agents, workers and supporters with his consent captured polling stations and stamped a large number of ballot papers in favour of the respondent No. 1.

Ground (a), thus, mentions that the corrupt practice of undue influence, as defined under section 123(2) of the Act, had been committed. It says nothing more. Ground (b) talks of interference with the free exercise of electoral rights of the voters by extension of threats of physical injury to them. Ground (c) says that the polling agents of petitioner Ram Nihore Rakesh were prevented from acting as polling agents and keeping a watch on the happenings inside the polling stations and ground (d) talks of the capturing of polling stations and stamping of a large number of ballot papers in favour of Dr. Shailesh. It is obvious that ground (a), by itself, does not amount to anything more than repetition of the language of section 123(2) of the Act by implication. It does not specify anything. In the ultimate analysis, it could be the inference which could be drawn from the facts stated in the petition. Ground (c) does not even suggest interference with any electoral right as defined in section 79(d). The ground, even if assumed to have been established, does not amount to the corrupt practice of undue influence.

The two grounds which need a close look are grounds (b) and (d). What are the material facts stated about them may then be seen.

Petitioner Ram Nahore Rakesh has confirmed the corrupt practice of undue influence being committed on the date of poll, for purposes of the petition, to polling station Nos. 76, 77 and 78 of Sakha in Sirathu Assembly segment and at polling station Nos. 11 and 12 at Sarsawan in Manjhanpur Assembly segment.

Paragraphs 15 to 39 of the petition deal with the former while paragraphs 31 to 35 deal with the later.

Sakha : At sakha polling stations No. 76, 77 and 78, polling was held in Zila Parishad Primary School in village Sakha. It was in a big Hall in which the presiding Officers of the three polling stations were sitting separately (paragraph 150). Shiv Sagar Singh, Block Pramukh Sirathu, who is a prominent Congress (I) worker and active supporter of Dr. Shailesh, is a criminal involved in numerous serious crimes. Being a Congress worker he has patronage and support of the local police and the District administration. People of the vicinity area afraid of him and due to his terror and intimidation the electors feared threat to their life and property if they supported and voted for petitioner Rakesh. No educated supporter of petitioner Rakesh at polling Station Sakha was willing to come forward and act as his polling agent due to terror of Shiv Sagar Singh (Paragraph 16). The election petitioner, therefore, appointed Subhash Tripathi and Anugrah Narain Singh, both former President of the Allahabad University Union, and Ishtiaq Ahmad to go to Sakha and act as polling agents on these polling stations and gave to them duly signed and filled polling Agents forms. The petitioner thought that these people being young and devoted workers will be able to safeguard his interest.

Thus, far, the allegations are only in regard to the failure of petitioner Rakesh in enlisting any local educated person of Sakha as the polling Agent to watch his interest. They do not amount to interference with free exercise of any electoral right as defined in section 79(d). The statement in paragraph 16 that the people of the vicinity were very

much afraid of Shiv Sagar Singh and to his terror and intimidation "the electors feared threat to their life and property if they supported or voted for the election petitioner" is much too vague. It cannot be said to be statement of any material fact.

Shiv Sagar Singh was present at polling Stations 77, 78 and 79 on the date of poll when Subhash Tripathi and Ishtiaq Ahmad went there and presented their polling Agent Forms. Due to threat extended by Shiv Sagar Singh to the Presiding Officers they did not accept the polling Agent Forms. Shiv Sagar Singh pointed his revolver towards these three persons and asked them to leave the village at once. Due to fear, terror and threat of Shiv Sagar Singh these persons left the place to save their lives and made a written complaint to the Sub-Divisional Magistrate, Sirathu at 12.55 P.M. on the date of the poll. The police personnel posted at the Police Station were also mere mute spectators to the happenings at the polling station and turned a deaf ear to the complaint made by the said polling Agents (paragraph 18). Dr. Shailesh was personally presented polling Stations 76, 77 and 78 when the above incident took place, and it was with this consent that Shiv Sagar Singh prevented the polling Agents in discharge of their duties as such (paragraph 19).

Even if these facts were to be accepted as correct, this hardly amounts to interference with any electoral rights as defined in section 79(d) and, consequently, to the charge of undue influence.

Subhash Tripathi, Anugrah Narain Singh and Ishtiaq Ahmad saw Dr. Shailesh standing inside the Sakha polling station and in his presence Shiv Sagar Singh was stamping the ballot papers in favour of Dr. Shailesh (Paragraph 18). There was strange scene before the polling stations sakha 76, 77 and 78 as there was no elector present inside the polling booth. Shiv Sagar Singh, who was the polling Agent to both polling Stations 76 and 77 alongwith Bhriag Singh was stamping the ballot papers in favour of Dr. Shailesh in front of these three persons (paragraph 20). Petitioner Rakesh alongwith his election agent Vijai Bahuguna, rushed to polling stations 76, 77 and 78 Sakha and they were shocked to see that Shiv Sagar Singh and the other polling agents of Dr. Shailesh had prevented the electors, who were standing outside, from exercising their right to vote at polling Stations 76, 77 and 78 and were stamping the ballot papers in favour of Dr. Shailesh in his presence (paragraph 21). Petitioner Rakesh and his election agents on their return to the City after visiting large number of polling stations where rigging was taking place, made a written complaint to the aforesaid effect to the Returning Officer, which was received in his office at 4.10 P.M. on the date of polling (paragraph 22).

These assertions show that Shiv Sagar Singh and Bhriag Singh, polling Agents of Dr. Shailesh had kept the electors outside polling station 76, 77 and 78 Sakha on the date of poll and were stamping ballot papers in favour of Dr. Shailesh who was present there. This had been seen by Subhash Tripathi, Anugrah Narain Singh and Ishtiaq Ahmad as well as petitioner Rakesh and his election agent Vijai Bahuguna.

An elector has the electoral right of voting at an election. He can, if he likes, refrain from doing so. The fact an elector is prevented with free entering a polling station is interference with free exercise of his electoral right of voting at the election. If some one else stamps his ballot paper by keeping him away from the polling booth it does amount to interference with free exercise of his electoral right. These facts, if established, would squarely bring the case within the ambit of corrupt practice of undue influence.

Shiv Nath son of Badal, Shiv Bail son of Parmeswar and Ram Jiyaram son of Gayadri are electors whose names are mentioned at serial No. 37 and 406 of part 76 and at serial No. 359 of part 78 of Sakha polling stations 76 and 78 (paragraph 23). These electors told petitioner Rakesh and his election agent on the date of the poll, when they went to polling station 77 Sakha at about 10.30 A.M. that Shiv Sagar and Dr. Shailesh were not allowing voters of polling stations 76, 77 and 78 at enter

the polling stations and had threatened them with physical injury if they did so to exercise right of vote. Due to this fear and terror they did not exercise their right of vote and left the polling Station (paragraph 24). Telegram about booth capturing at these polling stations was sent to the chief Election Commissioner, New Delhi on the date of the poll and a written complaint was also made to the Sub-Divisional Magistrate about it (paragraph 25).

Several electors thus made complaint about the restraint put upon them by Dr. Shailesh and his polling agent Shiv Sagar Singh on the date of poll resulting these electors failing to exercise their electoral right. Clearly enough, such interference if established, would amount to the corrupt practice of undue influence. In connection with these paragraph it was urged on behalf of Dr. Shailesh that the allegations in regard to exclusion of electors and stamping of ballot papers were vague, inasmuch as they did not specify as to who were the electors who were prevented from entering the polling stations and what were the details of the ballot papers which were said to have been stamped in favour of Dr. Shailesh. It has not been disclosed proceeded the submission, as to where the persons, who were found to have been stamping the ballot papers, had got them whether from the presiding officer or the electors themselves, nor had it been indicated as to how. Dr. Shailesh gave his consent to this action of Shiv Sagar Singh and the other polling agents whose names had not been disclosed. The presence of Dr. Shailesh had been alleged at more than one polling station. The fact as to how and in what manner threat was extended by Shiv Sagar Singh to the electors had not been disclosed. This renders the pleadings insufficient which of all short of the required standard of statement of material facts.

In *Paras Nath Vs. Dhan Raj Yadav and others* (Election petition No. 36 of 1985 decided on February 19, 1986) Om Prakash, J. while dealing with an application under Order VI rule 16 read with Order VII rule 11, C. P. C. observed that "to raise the ground of corrupt practice under section 12-3(2) the interference with the exercise of electoral right should be such which is favourable to the returned candidate" and if it is detrimental to the returned candidate then it cannot be said that the result of the returned candidate was materially affected. Further, that material facts in regard to threat given to the electors, in the form of the manner of threat and actual use of the words and expression should be mentioned so also the fact whether the consent of the candidate was, implied or express, be given. In the case of *Paras Nath* these details were lacking in paragraph 7 of the petition. He held that the paragraph deserved to be deleted. Similarly, in *Bashir Ahmad Vs. Nukum Singh and others* (Election petition No. 21 of 1985 decided on February 17, 1986) the same learned Judge dealt with a case where again the allegation was that the electors were prevented from exercising their right of vote and the ballot papers were forcibly marked in favour of the first respondent (returned candidate) at a large number of polling stations. The allegation further was that the voters were terrorised and the returned candidate asked his workers and supporters present at the polling stations to stamp the ballot papers themselves. While dealing with these pleadings, the learned Judge observed that the facts relating to the threat lacked in detail, as to what expressioner words were actually used. Further, there was no allegation that the ballot papers which were forcibly marked were being put into the ballot boxes and that mere marking of ballot papers by force did not constitute the full cause of action. The allegation that corrupt practice committed by the polling agent had materially affected the election, had not been made. No fact relating to the identity of the agents and workers had been stated. There was no allegation that marking of the ballot papers in favour of the returned candidate was with the consent of the election agent or the candidate himself. The pleadings were directed to be struck off. In both these cases, the learned Judge also dismissed the election petition as he felt that after the deletions of the various paragraphs, no triable issue survived. The learned Judge drew support from the decision of the Supreme Court in the case of *Daulat Ram* (A.I.R. 1984 S.C. 612).

In *Daulat Ram* libellous slogans and display of pamphlets was made to alienate the voters from the petitioner. It was done by two persons, namely, Batish and Sood of Bhartiya Janata Party. The allegations were made in paragraph 16 of the petition. Analysing these allegations, the Supreme Court said that there was no clear and specific allegation that Batish and sood took active part in raising libellous slogans and displayed the pamphlets with the express or implied consent of the returned candidate or his election agent. The learned Judges laid down that in order that an act of the candidate concerned may amount to an allegation of corrupt practice it must be committed by the candidate himself, his election agent or any other person with the consent of the candidate or his election agent. They also laid down (in paragraph 18 of the report) that;

".....in order to constitute corrupt practices the following necessary particulars, statement of facts and essential ingredients must be contained in the pleadings;

- (1) Direct and detailed nature of corrupt practice as defined in the Act.
- (2) Details of every important particular must be stated giving the time place, names of persons, use of words and expressions etc.
- (3) It must clearly appear from the allegations that the corrupt practices alleged were indulged in by (a) the candidate himself (b) his authorised election agent or any other person with his express or implied consent."

The two decisions by Om Prakash J. turn on the peculiar facts of these cases. In the case of *Paras Nath* the learned Judge found that in paragraph 7, which related to the charge of corrupt practice by way of undue influence, it had not been stated that there was interference with the exercise of some electoral rights which gave advantage to the returned candidate. Thereafter, he proceeded to observe, though it was not necessary, that the schedule referred to in paragraph (7)C did not mention the details relating to the manner of threat or consent though in paragraph (7)C itself it had been mentioned that Yadava, who was the worker and supporter of the returned candidate, extended the threat with the consent of that candidate. Similar observation was made by the learned Judge in relation to the allegations contained in paragraph (7)(d) to (1) where also allegation about the fact of consent of the returned candidate had been made but the manner in which it was given or the words or expression used for giving the threat or the fact whether consent was implied or express was not disclosed.

The law, as laid down in *Daulat Ram's* case, is only to the effect that a direct and detailed nature of the corrupt practice as defined in the Act should be mentioned and so also the fact that he said practice was indulged in by any other person with the express or implied consent of the candidate or his election agent, as part of statement of material facts. Details, like the giving of time, place and names of persons, like of the words and expression etc. have been categorised by the Supreme Court to be part of the important particulars. The observation in the two judgements of Om Prakash, J. that even in the case of a corrupt practice like that of undue influence, the further assertion in the petition should be that the result of the election had been materially affected, in case the corrupt practice was alleged to have been committed by any other person with the consent of the returned candidate or his election agent, appears to have been made in the context of the fact that Yadav (in the case of *Paras Nath*) was a "worker and supporter of the returned candidate." In the case of *Bashir Ahmad*, the consent of the returned candidate or of his election agent for the commission of the alleged corrupt practice had not been pleaded. The question of also alleging and establishing that the corrupt practice had materially affected the results of the poll arises according to the Supreme Court decision in *S. N. Balakrishna Vs. George Fernandez and others* etc. (AIR 1969 SC 1201), relied upon by the learned Judge in these two cases, only where the consent to the commission of corrupt practice

on part of the candidate or his election agent is not proved. Where, according to the Supreme Court in the case of Balakrishna, the petitioner proves the corrupt practice by the candidate himself or his election agent or some one with the consent of the candidate or his election agent, he need not establish further as to what the result of the election would have been without the corrupt practice. In a case where proof of the effect of the corrupt practice committed by a person, without the consent of the candidate or his election agent upon the result of the poll is needed, that fact must be pleaded. But, where the plea is that the corrupt practice was committed with the consent of the candidate or his election agent and no proof of the effect of the corrupt practice upon the poll is required, it is obvious that a plea to that effect is not necessary at all. The observations of Om Prakash, J. In the two decisions, must be read in this light and must be confined to the facts of the case before him.

The argument that there being no allegation that the ballot papers which had been stamped by the agent or workers of Dr. Shailesh had actually been put in the ballot box, the cause of action could not be said to be complete, may be considered, at this stage. The gravamen of the charge of the corrupt practice of undue influence is that there is interference with the exercise of electoral rights. The fact that restraint was put upon some named electors in the matter of exercise of their rights of casting their votes at a particular polling station by the candidate or his election agent or by an agent or worker with their consent completes the accusation. The allegation that the ballot papers at a particular polling station were forcibly stamped and put in the ballot box (or not) is not an essential ingredient of the allegation relating to the aforesaid charge of undue influence. More particularly, the fact whether the stamped ballot paper was put into the ballot box pertains to the ambit of inquiry into the fact whether the result of the poll is materially affected. In Hashir Ahmad, Om Prakash, J. was dealing with a case where the consent of the returned candidate or his election agent of the commission of the corrupt practice by the polling agent had not been pleaded at all and where necessarily the material effect of the forcible stamping of the ballot papers in favour of the returned candidate and their being put into ballot box had to be gone into.

In Tej Han Singh vs. Rajpati Devi and another (Election petition No. 13 of 1985 decided on December 29, 1985) S. Saghir Ahmad, J. inter alia, observed that where the right of vote of an elector is said to have been interfered with, the details of such voter by mentioning his name and specifying the serial number of the voters list at which it is recorded, should be disclosed in the petition as part of material facts and further where an voter is said to have been threatened with physical injury etc. as part of corrupt practice of undue influence, his name should also be mentioned. The learned Judge then proceeded to notice the difference between a case where the corrupt practice is alleged to have been committed by a candidate or his election agent or any other person with his consent and a case where no allegation of such consent was made. In the latter case, according to the learned Judge, it is further to be established that the result of the poll has been materially affected by the corrupt practice alleged to have been committed in the interest of the returned candidate but without his or his election agent's consent. In such a case, naturally, the details about the persons who are said to have resorted to booth capturing and forcible stamping and insertion of ballot papers into the ballot boxes themselves and the source from which the ballot papers were obtained and in whose favour were they stamped and by which specific person etc. were material facts which are to be stated in the petition. It was further observed that the voters who could not exercise their electoral rights as a consequence of booth capturing and the facts that they would have supported the election petitioner should be stated with precision. This was necessary also because in the absence of such details, it would not be possible for the returned candidate to meet the allegation effectively.

Facts which bring out the essence of the charge of undue influence with precision to enable a returned candidate to meet it effectively and which, by themselves, constitute a

complete cause of action, should undoubtedly be stated as part of material facts in the petition itself. The facts beyond this namely, those which furnish details of the incident, form part of particulars and they can be furnished later if they are found to be deficient in any manner. Their absence will not render the petition liable to be dismissed. As observed by the Supreme Court in Balwan Singh v. Lakshmi Narain and others (AIR 1960 Supreme Court 770), an election petition is not liable to be dismissed in limine merely because full particulars of a corrupt practice alleged in the petition are not set out, and in.....Balakrishna (AIR 1969 SC 1201) that "just as a plaintiff without disclosing a proper cause of action cannot be said to be a good plaintiff, so also an election petition without the material facts relating to a corrupt practice is not election petition at all.....The material facts thus will show the ground of corrupt practice and the complete cause of action and the particulars will give the necessary information to present a full picture of the cause of action.....Today the particulars need not be separately included in a Schedule but the distinction remains. The entire and complete cause of action must be in the petition in the shape of material facts, the particulars being the further information to complete the picture.....If a petitioner has omitted to allege a corrupt practice, he cannot be permitted to give particulars of the corrupt practice.....There is, however, a difference of approach between the several corrupt practices. If for example the charge is bribery of voters and the particulars give a few instances, other instances can be added, if the charge is use of vehicles for free carriage of voters, the particulars of the cars employed may be amplified."

The allegations in paragraph 26 and 27 relate to the changing of polling officer of polling station 76 sakha in breach of the communication the Chief Election Commissioner to the Returning Officer in that regard. This, according to the allegation, was a part of the plan to permit booth capturing to secure victory of Dr. Shailesh by themselves, these allegations do not constitute a corrupt practice but they cannot be said to be so unrelated to the charge of undue influence by interfering with the electoral rights of the voters that they do not deserve to be permitted to remain as part of the petition.

The allegations in paragraphs 28, 29 and 30 are to the effect that with a view to avoid repoll at the aforesaid polling station nos. 76, 77 and 78 Sakha, the polling was designedly kept below 80 per cent for as per the general directions of the Election Commissioner, repoll had to be ordered in case polling was over 80 per cent and a particular candidate had received a very high percentage of votes, if a complaint of booth capturing was promptly made. The counting in such cases had to be kept in abeyance and the matter referred to the Election Commissioner. The allegation is that in spite of a request to that effect, the Returning Officer proceeded with counting of votes of these three polling stations and the prayer made by Rakesh not to do so was rejected by the Returning Officer on irrelevant and extraneous considerations. These allegations are part of the chain of events relating to the grievance made by the election petitioner in respect of the corrupt practice of undue influence at these three polling stations and do not, therefore, deserve to be struck off as, by themselves, being irrelevant to the charge of corrupt practice levelled by petitioner Rakesh.

Sarsawan (Manjhanpur Assembly segment) :

Paragraphs 31 to 35 contain the allegations in regard to the corrupt practice of undue influence at polling station nos. 11 and 12 Sarsawan. Paragraph 31 says that both capturing was resorted to at these two polling stations by Dr. Shailesh, his agent workers and his supporters Gyan Singh S/o Chhaggo Singh, and Babu Lal Pathak S/o Premu were polling agents of Dr. Shailesh at Sarsawan north polling station while Shlok Narain Tripathi S/o Numberdat Tripathi was his polling agent at Sarsawan south. Jawahar Tripathi, Block Pramukh Sarsawan, an active worker, member and supporter of congress(I), is a notorious criminal and is involved in several criminal cases. He resides at Sarsawan. He actively campaigned for Dr. Shailesh. Paragraph 32 then says that the votes of these polling stations were to be polled in a com-

mon hall at Zila Parishad Primary Pathshala, Sarsawan. Thereafter, it is said in paragraph 33 that no educated elector was willing to become the polling agent of petitioner Rakesh at polling station nos. 11 and 12 due to terror and intimidation of Jawahar Tripathi. Consequently, Hari Shankar Srivastava and Rajesh Gupta of Allahabad were sent by petitioner Rakesh to act as polling agents for him. When these persons reached the polling station nos. 11 and 12 Sarsawan at 7.45 A.M. on the date of poll, they were forcibly stopped by Jawahar Tripathi and the polling agent of Dr. Shailesh in his presence. Dr. Shailesh and Jawahar Tripathi warned these polling agents that they would be killed if they did not leave the polling station. The protest made by these polling agents of petitioner Rakesh to the police personnel present therefore no fruit and due to fear their lives, these polling agents returned back so that there was no polling agent of petitioner at these polling stations. Thus far, no allegation of interference with the free exercise of any electoral right has been made out.

In paragraph 34 it has been given out that Nathu Singh son of Ram Bhawan Singh, Lakhan Singh son of Ram Bhawan Singh, Gyan Singh son of Chhaggo Singh and Dharendra Singh son of Chhaggo Singh were electors of polling station Sarsawan and had gone to cast their votes at polling station nos. 11 and 12 on the date of poll at 8.00 A.M. The following paragraph 35 they says that Dr. Shailesh and Jawahar Tripathi threatened these four electors and other, who were standing in a queue near the polling station, to run away without casting their votes or else they would be beaten. These four electors and other voters present there left the polling station without casting their votes. The electors were not permitted to exercise their right of vote. The second part of paragraph 35 then says that the polling agents of Dr. Shailesh and Jawahar Tripathi, in collusion with the Presiding Officer, marked a large number of ballot papers in favour of Dr. Shailesh to ensure his victory. A written complaint was made by Hari Shankar Srivastava who was present at Sarsawan at 7.45 A.M. about this corrupt practice committed by Dr. Shailesh and his polling agent with his consent.

The names of electors disclosed in paragraph 34 is not accompanied by their serial number in the voters list. That by itself, is not enough to treat the assertion in this paragraph lacking in statement of material facts. The allegations are that these persons were electors of polling station Sarsawan and had gone to cast their votes at polling station nos. 11 and 12 on the date of the poll. Better particulars of these voters can be asked for requiring the election petitioner to provide the necessary details about entry of the names of these electors with reference to the serial number and part of the voters list of the two polling stations. Paragraph 35 refers to Dr. Shailesh and Jawahar Tripathi threatening them by asking them to run away without casting their votes failing which they would be beaten. In consequence, the four electors, amongst other voters, left the polling station without casting their votes. The allegation also is that the electors were not permitted to exercise their right of vote. These assertions in paragraphs 34 and 35 give out a complete cause of action in respect of interference with free exercise of electoral rights of the four named electors. Nothing more was needed to be stated as part of material facts.

It is thus seen that both in respect of polling station nos. 76, 77 and 78 Sakha (Sirathu Assembly segment) and nos. 11 and 12 Sarsawan (Manjhanpur assembly segment) there is concise statement of material facts relating to the charge of undue influence of interference with the free exercise of electoral rights of named electors by restraining them from casting their votes on pain of physical assault. The facts stated in various paragraphs of the election petition, namely, paragraphs 15 to 35 given out a complete chain of events in connection with these accusation. May be read in isolation, some of the paragraphs may not be themselves disclose commission of the corrupt practice of undue influence but read as a whole, these allegations constitute a concise statement of material facts relatable to ground (b) which requires trial by this court. They are also relatable to ground no. (d) which needs trial in view of the observations contained in the minority judgment of the Supreme Court in Ram Singh Vs. Col. Ram Singh (A.I.R. 1986 SC3)

under rule 16 of order VI of the Code of Civil Procedure only those pleadings can be ordered to be struck out which may be unnecessary, scandalous, frivolous or vexatious or which may tend to prejudice, embarrass or delay the fair trial or may be otherwise an abuse of the process of the court. No effort was made by the counsel for Dr. Shailesh during his submission to bring any part of the allegations in the present Election Petition in any of these categories, rule 11 of order VII, C.P.C. the petition can be thrown out, without a trial, only when it is found that it does not disclose a cause of action. The endeavour of the learned counsel for Dr. Shailesh was to establish it in the instant case. The discussion thereto shows that he was not able to persuade not to take that view.

The rules of pleadings are intended as aids for a fair trial and for reaching a just decision. An action at law should not be equated to a game of chess." (Raj Narain Vs. Smt. Indira Nehru Gandhi and another A.I.R. 1972 SC 1302). "The result of the election are subject to judicial scrutiny and control only with an eye on two ends. First, to ascertain that the true will of the people is reflected in that result and second, to secure that only the persons who are eligible and qualified under the Constitution obtain the representation. In order that the true will is ascertained the courts will step in the protest and safeguard the purity of Elections, for if corrupt practices have influenced the results or the electorate has been a victim of fraud or deception or compulsion on any essential matters, the will on the people as recorded in their votes, is not the free and true will exercise intelligently by deliberate choice. It is not the will of the people in the true sense at all. And the courts would, therefore, it stands to reason, be justified in setting aside the election in accordance with law if the corrupt practices are established" "And also notwithstanding the fact that elections involve considerable expenditure of public revenues (not to speak of private funds) and result in loss of public time, and accordingly there would be good reason for not setting at naught the election which reflects the true will of the people lightly. In matters of election the will of the people must prevail and courts would be understand by extremely slow to set at naught the will of the people truly and freely exercised. If courts were to do otherwise, the courts would be pitting their will against the will of the people, or countermanding the choice of the people without any object, aim or purpose. But where corrupt practices are established the result of the election does not echo the true voice of the people. The courts would not then be deterred by the aforesaid considerations which in the corruption scenario lose relevance." See : Azhar Hussain Rajiv Gandhi (A.I.R. 1986 SC 1253).

In result, the application (A-15) is dismissed
Dt. September 4, 1986.

Sd/-
V.K.M.

True Copy

SECTION OFFICER
SECTION OFFICER
HIGH COURT ALLAHABAD.

IN THE HIGH COURTS OF JUDICIATURE AT
ALLAHABAD
CIVIL SIDE

ORIGINAL JURISDICTION

DATED ALLAHABAD THE 2-1-1987

PRESENT :

The Hon'ble O. P. Mehrotra Judge.
Election Petition No. 8 of 1985

Shri Ram Nihore Rakesh Petitioner.
Versus

Dr. Behari Lal Shailesh and others..... Respondents.

BY THE COURT

Counsel for the respondents has filed copy of Hon'ble Supreme Court's order dated 1-12-86 which shows that the order passed by this court on 4-9-86 dismissing application A-15 was set aside by the Hon'ble Supreme Court and this election petition has been dismissed.

Let this be taken on record.

As the election petition has already been dismissed by the Hon'ble Supreme Court nothing more has to be done in this case.

Dt. 2-1-87.

Sd/- O.P.M.

